

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Katherine White	Team: Squad #5	CCRB Case #: 202003895	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 8:40 PM	Location of Incident: Madison Avenue and East 95th Street	Precinct: 19	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 06/04/2020 10:05 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 06/04/2020 10:05 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Carina Garcia	27268	968424	REC TNG
2. SGT Patrick Lindie	05572	952999	007 PCT
3. An officer			
4. POM Michael Sisinni	17712	959249	007 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John McCormick	05616	956905	013 PCT
2. POF Tania Mejia	26875	968635	052 PCT
3. POF Maribel Sarante	10211	931973	007 PCT
4. POF Yudelka Rodriguez	21190	963241	007 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Sisinni	Force: Police Officer Michael Sisinni used physical force against § 87(2)(b)	
B. An officer	Force: An officer used physical force against § 87(2)(b)	
C.SGT Patrick Lindie	Force: Sergeant Patrick Lindie used physical force against § 87(2)(b)	
§ 87(2)(b), § 87(4-b), § 87(2)(g)		

## Case Summary

On June 4, 2020, § 87(2)(b) filed this complaint on behalf of herself and her husband, § 87(2)(b) on the CCRB website.

On June 2, 2020, at approximately 8:40 p.m., at the intersection of Madison Avenue and East 95<sup>th</sup> Street in Manhattan, § 87(2)(b) and § 87(2)(b) were marching in a Black Lives Matter demonstration. Officers began apprehending marchers for violating the Mayor's curfew order. Police Officer Michael Sisinni, of the 7<sup>th</sup> Precinct, and another unidentified officer, pulled § 87(2)(b) to the ground before handcuffing him (**Allegation A: Force**, § 87(2)(g)). **B: Force**, § 87(2)(g) Officers apprehended § 87(2)(b) without bringing her to the ground and handcuffed her with zip-tie "Flex Cuffs." The cuffs were far too tight on one of § 87(2)(b)'s wrists. When Sergeant Patrick Lindie, then assigned to the 7<sup>th</sup> Precinct, removed the handcuff with a cutting implement, § 87(2)(b) sustained a minor cut on her wrist (**Allegation C: Force**, § 87(2)(g)). Police Officer Carina Garcia, then technically assigned to Recruit Training but working from the 7<sup>th</sup> Precinct, was present for § 87(2)(b)'s apprehension and ultimately issued her a summons. § 87(4-b), § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) received summonses for violating the curfew order (BR01-02).

Sgt. Lindie has since been reassigned to the Management Orders and Directives Section. PO Garcia now appears as officially assigned to the 7<sup>th</sup> Precinct.

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) The investigation made multiple requests for BWC footage based on the best available evidence regarding which commands were present during the incident, but only received clips from an uninvolved officer at a different location (BR04-05). The investigation also requested footage from any on-the-ground TARU officers who were filming with handheld cameras, and only received clips from unrelated incidents (BR06-19). The investigation did locate footage showing § 87(2)(b) after she was cuffed (see link in BR03).

## Findings and Recommendations

**Allegation (A) Force: Police Officer Michael Sisinni used physical force against § 87(2)(b)**

**Allegation (B) Force: An officer used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) was marching in the street nearly an hour after the mayoral curfew order. It is also undisputed that PO Sisinni pulled § 87(2)(b) by his backpack out of a line of protesters, and that PO Sisinni and another unidentified officer used some amount of force to handcuff him. It is also undisputed that § 87(2)(b) went to the ground before being handcuffed, and that he did not sustain any injuries during the incident.

§ 87(2)(b) provided testimony during an initial phone statement (BR20) and in a full telephone interview (BR21). His accounts were consistent except where noted below. § 87(2)(b) recounted that he and § 87(2)(b) locked arms with other demonstrators and formed a line in the street at the rear of the march. PO Sisinni and a second unidentified officer grabbed § 87(2)(b)'s backpack and pulled him out of the line. In his initial telephone statement, § 87(2)(b) recounted that the officers put pressure on his upper body and pushed him down to the ground. He specified that, while the officers did not push him down with a great amount of force, he also did not voluntarily

go down to the ground. In his full interview, § 87(2)(b) elaborated that the officers first attempted to move him to the side of the street, and that he briefly resisted their efforts before he realized they were attempting to arrest him. § 87(2)(b) then lowered himself to his knees before lying down on his stomach. § 87(2)(b) described being brought to the ground as “more aggressive than the word ‘guided’ suggests,” and felt that he was “pushed,” but also said that he was not “tackled like a football player.” § 87(2)(b) was not able to see, and could not describe, the other officer who brought him to the ground.

§ 87(2)(b) saw the officers pull § 87(2)(b) out of line beside her, but she did not see the rest of his apprehension as she was being apprehended at the same time (BR22).

PO Sisinni confirmed that he grabbed § 87(2)(b)'s arms and backpack from behind and pulled him away from the line of demonstrators with whom he had locked arms (BR23). § 87(2)(b) resisted PO Sisinni's efforts by refusing to let go of the other demonstrators. PO Sisinni then moved § 87(2)(b) approximately ten yards away from the crowd before attempting to handcuff him with zip-tie cuffs. A second officer joined PO Sisinni—PO Sisinni did not know this officer, could only describe him as male, and could not provide his rank or command. PO Sisinni was not working alongside other members of his squad at this time. PO Sisinni was “struggling” to apply the zip-tie cuffs to § 87(2)(b). PO Sisinni could not explain why he was “struggling” to cuff § 87(2)(b) or if § 87(2)(b) was resisting the cuffing. The second officer “guided” § 87(2)(b) to the ground. PO Sisinni had great difficulty describing what he meant by “guided.” He characterized it as “showing” someone to the ground, as opposed to “pushing” them to the ground. He specified that the unidentified officer did not use a “takedown,” which he described as “forceful throwing to the ground.” PO Sisinni recounted that the unidentified officer “put pressure” on § 87(2)(b)'s body to indicate that he wanted § 87(2)(b) to go to the ground, and that § 87(2)(b) complied and “went to the ground of his own power.” PO Sisinni did not know where the unidentified officer touched § 87(2)(b) to guide him to the ground. PO Sisinni was also touching § 87(2)(b) when he was “guided” to the ground. § 87(2)(b) complied and “landed” on the front of his body, and the officers cuffed him on the ground.

The investigation was unable to identify the second officer who apprehended § 87(2)(b). As noted above, the investigation was unable to locate any video footage showing § 87(2)(b)'s apprehension, and PO Sisinni testified that his BWC battery had expired by the time of the incident. The incident took place within a large and chaotic protest situation which involved numerous civilian and officers from a variety of commands.

Although PO Sisinni indicated that the unidentified officer was the one who decided to move § 87(2)(b) to the ground, he admitted that he was also touching § 87(2)(b) during this time. Absent additional evidence, the investigation was unable to determine the exact manner in which § 87(2)(b) went to the ground, and what level of force the officers used during that process.

Patrol Guide Procedure 221-01 states that officers may use force when it is reasonable to place a person in custody (BR24). Officers must only use the reasonable force necessary to gain custody of a subject. Any use of force must be reasonable under the circumstances and not excessive. When appropriate and consistent with personal safety, officers should use de-escalation techniques to safely gain voluntary compliance, in order to reduce or eliminate the necessity to use force. Officers should consider a number of factors in evaluating whether the use of force is reasonable, including the nature and severity of the crime and surrounding circumstances, actions taken by the subject, whether the subject is actively resisting custody, immediacy of the perceived threat or harm to the subject or officers, the number of subjects in comparison to the number of officers, the size of the subject in comparison to the officers, and the presence of a hostile crowd.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

**Allegation (C) Force: Sergeant Patrick Lindie used physical force against § 87(2)(b)**

It is undisputed that one of § 87(2)(b)'s zip-tie handcuffs were far too tight, and that Sgt. Lindie used a cutting instrument to remove them.

§ 87(2)(b) did not mention any injuries when she filed the complaint. In her CCRB interview, she recounted that the zip-tie cuff on her right wrist was too tight. She immediately began to feel “pins and needles” in her right hand and wrist. The cuff on her left wrist was so loose that her hand could slide out of it. § 87(2)(b) asked officers to replace her cuffs, and several officers worked together to cut them off. § 87(2)(b) could not see what the officers used to cut the cuffs. The investigation determined that Sgt. Lindie was the officer who cut the cuff of her wrist. The cuff on her right wrist was so tight that it was cutting off her circulation, and Sgt. Lindie had difficulty sliding the cutting implement between the cuff and her wrist. § 87(2)(b) described the process of removing the cuff as not “gentle,” but also not “unnecessarily rough.” Sgt. Lindie cut her wrist in the process of removing the cuffs, resulting in a “small nick” about a quarter of an inch long on the inside of her right wrist. This cut was incidental to the process of removing the cuffs. § 87(2)(b) did not specifically complain to the investigation about the nick on her wrist—she cited it to emphasize just how tight the cuff had been on her wrist.

Nearly one month after the incident, § 87(2)(b) provided a photograph of the faint red mark on her wrist (BR25).

§ 87(2)(b) recounted that § 87(2)(b) was in a lot of pain due to the tightness of her cuffs. Although § 87(2)(b) saw the process of § 87(2)(b)'s cuffs being removed and replaced, and he could see one officer handing a tool to another during this process, he could not see the tool and was not able to see specifically how Sgt. Lindie used the tool.

Sgt. Lindie confirmed that he helped § 87(2)(b) when she complained that her cuffs were causing her pain (BR26). He removed them using a tool from another officer that resembled a “seat belt cutter.” Sgt. Lindie was not familiar with the tool and could not further describe it. § 87(2)(b) thanked him for fixing the cuffs. She did not complain of sustaining an injury as a result of the cuffs being removed, and Sgt. Lindie did not notice a cut to her wrist. He testified that he would have summoned medical personnel if he had seen such a cut or if she had complained of it.

PO Garcia was present during this portion of the incident, and she recalled that Sgt. Lindie removed

or adjusted § 87(2)(b)'s cuffs (BR27). However, she could not recall how Sgt. Lindie did so or if he used a tool to do so. PO Garcia did not see § 87(2)(b) sustain any cuts during the handcuffing process.

Patrol Guide Procedure 221-01 states that officers may use force when it is reasonable to ensure the safety of a civilian (BR24). Any use of force must be reasonable under the circumstances and not excessive.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(4-b), § 87(2)(g)

#### **Civilian and Officer CCRB Histories**

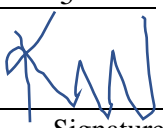
- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (BR29-30). § 87(2)(b)
- PO Michael Sisinni has been a member of the NYPD for five years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. PO Sisinni's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- Sgt. Patrick Lindie has been a member of the NYPD for eight years and this is the first CCRB complaint in which he has been a subject. He is also a subject in case #202005295, which is still under investigation and which also stems from events during this protest incident. Sgt. Lindie's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- PO Carina Garcia has been a member of the NYPD for one year, and this is the first CCRB complaint in which she has been a subject.

#### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of April 22, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (BR31).

- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (BR32).
  - According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (BR33-35).
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Squad No.: 5

Investigator:	 Signature	<u>INV Katherine White</u> Print Title & Name	<u>June 3, 2021</u> Date
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Squad Leader:	<u>Daniel Giansante</u> Signature	<u>IM Daniel Giansante</u> Print Title & Name	<u>June 4, 2021</u> Date
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Reviewer:	 Signature	 Print Title & Name	 Date
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